

cup that was sold, for a gargantuan total of \$9 trillion.

In reality, the bulk of these suits settle for their nuisance value, the costs of continuing to litigate. They represent a tax that patent lawyers are imposing on domestic manufacturing—a shift in wealth to lawyers that comes at the expense of manufacturing jobs. Well, this bill prevents such abuses by repealing the statute's *qui tam* action while still allowing parties who have separate actual injury from false marking to sue and allowing the United States to enforce a \$500-per-product fine where appropriate. *Qui tam* statutes are a relic of the 19th century and generally produce far more litigation than is in the public interest. Almost all of these statutes have been repealed.

The America Invents Act continues this trend. By repealing the false marking *qui tam* statute, the AIA will allow American companies to spend money hiring new workers rather than fighting off frivolous false marking suits.

In conclusion, the America Invents Act will provide important benefits to U.S. inventors of all sizes, to startup companies, to domestic manufacturing, and to the U.S. economy generally. I look forward to its passage by the Senate and its enactment into law.

As the majority leader stated in his remarks in leader time, I hope those who may have amendments will immediately file those amendments so the Senate can take them up in good order, have plenty of time to debate them, and dispose of them in the appropriate way. It would be my hope the Senate will end up passing the bill adopted by the House of Representatives so our action can result in sending the bill directly to the President for his signature. That is an accomplishment that could be achieved with cooperation between the House and the Senate, between Democrats and Republicans, between the legislative and executive branches, and I think it would certainly begin to mark the time when the American people could see their legislative representatives begin to work together on their behalf.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

CARSON CITY SHOOTING

Mr. REID. Mr. President, I was saddened to hear just a few minutes ago of a senseless act of violence committed in our capital, Carson City, NV. It happened at a restaurant. There are few details of what happened and what led

to this tragedy that occurred just a few minutes ago, but according to early reports three people are now dead and six others have been wounded by a single gunman.

So I extend my deepest sympathies to all of those who have been affected. The victims and their families are in my thoughts and will be every day, and certainly they have been during the last several minutes. I am disturbed to hear that two of the victims were serving this Nation proudly as part of the Nevada National Guard.

I commend the brave first responders who rushed to the scene for their professionalism.

Carson City is a wonderful place. I have spent time there through three legislative sessions. There are the beautiful Sierra, NV, mountains. It is a peaceful, quiet place; and to have something such as this happen is very difficult to accept.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

HURRICANE IRENE

Mr. SANDERS. Madam President, as I suspect you know, Vermont has been hit very hard by Hurricane Irene. The storm caused widespread flooding, resulting in a number of deaths, the loss of many homes and businesses, and hundreds of millions of dollars in damage to property and infrastructure.

I have visited many of the most hard-hit towns in the past week, including Ludlow, Wilmington, Brattleboro, Berlin, Moretown, and Waterbury. I was shocked and moved by the extent of the damage I saw. Many towns still have very limited access because the roads and bridges that link them to the world have been destroyed. This disaster will go down in history as one of the very worst natural disasters in the history of the State of Vermont.

Let me take this opportunity to personally thank the emergency rescue teams and all those aiding the victims of the floods for their outstanding work. Local crews, along with the Vermont National Guard, and Guard units from other States, such as New Hampshire, Maine, and Illinois, have airline-lifted food, water, blankets, and medicine to the worst hit towns. Police, fire, and local officials have also done an extraordinary job.

We still don't know the cost of this disaster—it probably will not be tabulated for a while—but let me share a few figures in terms of what we have experienced. Just days after the declaration of a major disaster by the President, more than 2,000 Vermonters had already registered with FEMA—

2,000. To date, there have been more than 700 homes confirmed as severely damaged or destroyed.

I had the opportunity to go to some trailer parks in Berlin, in central Vermont, and I was down in the southern part of the State in Brattleboro and it is an incredibly sad sight to see. Mobile homes, where senior citizens were living, have been destroyed. They are now forced to relocate. It was a very tragic circumstance.

Further, the storm has knocked out 135 segments of the State highway system, as well as 35 State bridges, completely isolating 13 communities for several days. An unknown number of farms and businesses have been destroyed.

I was down in Wilmington, a beautiful town in the southern part of the State on Route 9. Virtually their entire downtown business community has been severely damaged, and that is clearly undermining the fabric not only of the economy of that town but of towns throughout the State.

Our Amtrak and freight rail services were completely suspended as tracks literally washed into rivers. So we had tracks underwater. The State's largest office complex is located in Waterbury, VT, a few miles from our capital, Montpelier, and I visited that facility. It had been completely flooded. There are 1,700 people who work there. For a small State, that is a lot of people—1,700 people—who work in our major office complex in Waterbury. That has now been shut down for an indefinite period of time. That impacts, obviously, the State's ability to provide services to the people of Vermont.

At least 65 public schools were impacted and could not open on time. School is just beginning, with 65 public schools not able to open on time. This is just a short list of some of the devastation that is going on in the State.

I also want to call to the attention of the Senate another extraordinary tragedy in our State, and that is the death of a gentleman named Michael Garafano. Mr. Garafano was an employee of the city of Rutland, and Rutland was very hard hit by this disaster. He and his son went up to a local dam to inspect the condition of the dam. They were hit by a flash flood and both of them lost their lives. So here we have an extraordinary public servant, trying to protect the well-being of the people of Rutland, and he gave his life in that effort. Mr. Garafano's effort will never be forgotten.

As we go forward—not just for Vermont but for New Jersey, for North Carolina, and we know upstate New York was also hard hit—I have every confidence the Senate and the House will do for Hurricane Irene as we have done for other natural disasters that have impacted different parts of our country, and I look forward to working with my colleagues to make sure, as Americans, we rebuild the communities in Vermont and in other sections of the country that were devastated by this terrible flood.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DONALD NOMINATION

Mr. ALEXANDER. Madam President, later today the Senate will consider the nomination by the President of Judge Bernice Donald for the Sixth Circuit Court of Appeals. Judge Donald is from Memphis, TN. I know her well. I am here today to introduce her to my colleagues and to encourage them to support her confirmation.

Judge Donald has been before the Senate before. She has been a Federal district judge since 1995. Our Judiciary Committee in the Senate has looked over her qualifications again and has recommended her to us without dissent. The American Bar Association has reviewed her credentials and said she is either qualified or well qualified.

I think there is not much doubt about her fitness to serve on the court of appeals, so in my remarks I would like to talk more about Judge Donald's role in the community and her role as a pioneer in our country during her lifetime. She is the sixth of 10 children. Her parents were a domestic worker and a self-taught mechanic in DeSoto County, MS, which is just south of Memphis. As a young person, she was among the first African Americans to integrate in her high school during the period of desegregation. She obtained a bachelor's degree from the University of Memphis and graduated from its law school. She focused her career at the beginning working among the most vulnerable citizens in Memphis in the Office of Legal Defender.

Here is where the pioneer story continues, not just in desegregating her high school or working with vulnerable citizens, but only 3 years after she left law school, she began a judicial career that has spanned nearly three decades. She became the first African-American female judge in the history of our State in 1982. Six years later, the Sixth Circuit Court of Appeals, upon which she has been nominated to serve by the President, appointed her to serve as U.S. bankruptcy judge for the Western District of Tennessee. Again she made history—an African-American female judge had been appointed as a bankruptcy judge in the United States. Then, in 1995, as I mentioned earlier, President Clinton nominated her to be a Federal district judge. On December 22 of that year the Senate confirmed her by unanimous voice vote, and she became the first African-American female district court judge in the history

of Tennessee. She served in that capacity for 15 years.

She has flourished in her career, not just on the court but in her profession. She has just concluded a 3-year term as Secretary of the American Bar Association, and she has previously served on its Committee on Governance and on its Board of Governors. She has been equally active in the local and Tennessee bar associations. She gives a good deal of her time to community organizations: the Memphis Literacy Council, the University of Memphis alumni board, Big Brothers, Big Sisters, Calvary Street Ministry, the YWCA, and others.

It is coincidental, but I think it is fitting that Judge Bernice Donald, a pioneer in so many ways in our State's history, will be the first nomination for the Federal bench that this body will consider after the opening of the Martin Luther King Memorial in the Nation's Capital. Her life, which is full of education and service and achievement, is a testimonial to the success of Dr. King's movement and the kind of leadership he inspired.

I commend her on all that she has accomplished both in her profession and in our State and in her community. I know Memphis is proud of her. I look forward to voting in favor of her confirmation this afternoon, and I hope my colleagues will do so as well.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, is there a nominee to report?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF BERNICE BOUIE DONALD TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The bill clerk read the nomination of Bernice Bouie Donald, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate, equally divided, in the usual form.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I wish to speak in support of the nomination of Bernice Bouie Donald as a U.S. Circuit Judge for the Sixth Circuit. With today's vote, we will have confirmed 34 article III judicial nominees during this Congress.

We continue to make great progress in processing President Obama's judicial nominees. We have taken positive action on 78 percent of the judicial nominations submitted during this Congress. The Senate has confirmed 63 percent of President Obama's nominees since the beginning of his Presidency, including two Supreme Court Justices, which everyone may recall was a lengthy process.

Despite our productive efforts, we continue to hear unsubstantiated and unfounded charges of delays and obstruction on the part of the minority party of the Senate. Over the August recess, opinion writers and bloggers parroted one another in churning out this message of obstruction on the part of the Republicans. I am not surprised to see this from outside groups. However, I was very disappointed the White House joined in publishing a distorted record on judicial nominations. I had a meeting this year with the White House Counsel's Office, and at that meeting I expressed my intent to move forward as the Republican leader of the Judiciary Committee Republicans on consensus nominees. I thought we had cooperative and productive conversations with the White House. Furthermore, I have demonstrated a record, on the part of the Republicans on the Judiciary Committee, of cooperation and action regarding judicial nominees.

But in a White House blog that was titled "Record Judicial Diversity, Record Judicial Delays" the White House characterized "the delays these nominees are encountering" as unprecedented. The White House has a short memory or a very limited definition to characterize the nominations process as "unprecedented."

To illustrate, the blog cites a statistic on the average wait time between the Judiciary Committee reporting out a nominee and confirmation on the Senate floor as evidence of an unprecedented delay. For example, it indicates circuit nominees of President Bush only waited 29 days, while President Obama's circuit nominees waited 151 days.

The nominations process, as everyone knows but maybe the White House needs to be informed about, is more than Senate floor action. It starts with the President actually nominating somebody. I have previously commented on the White House delay in sending nominations and have criticized some of the qualities of the nominees the White House has submitted. I will not elaborate on that today. But after a nomination is received, there is a process for hearing, for questions, and for committee debate prior to our committee vote. For whatever reason,